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10/822,884	04/13/2004	Yung Yip	10305US02	4010
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Attention: Eric D. Levinson Imation Corp. Legal Affairs P.O. Box 64898 St. Paul, MN 55164-0898			EXAMINER NGUYEN, TANH Q	
			ART UNIT 2182	PAPER NUMBER
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Please find below and/or attached an Office communication concerning this application or proceeding.

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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 10/822,884
Filing Date: April 13, 2004
Appellant(s): YIP ET AL.

Eric Levinson (Reg. No. 35,814)
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed February 6, 2208 appealing from the Office action mailed July 3, 2007.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct. Claims 1-8 and 16-20 are the subject of the appeal.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

US 2002/0159182	Albrecht et al.	10-2002
US 2004/0113129	Waggoner et al.	06-2004

"STAT: A guide to LNP's line of thermoplastic composites for electrostatic dissipation" - 2001, 12 pages.

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

1. Claims 1-8, 16-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Albrecht et al. (US 2002/0159182A) in view of Waggoner et al. (US 2004/0113129A) and "STAT: A guide to LNP's line of thermoplastic composites for electrostatic dissipation" (STAT).
2. As per claim 1, Albrecht teaches a data cartridge [40, FIG. 3], comprising:
 - a housing [41, FIG. 3];
 - a non-tape storage medium contained within the housing [[0055], line 5; FIG. 24, FIG. 25];
 - circuitry contained within the housing for accessing the non-tape storage medium [[0055]]; and
 - an externally accessible electrical connector supported by the housing and

electrically coupled to the circuitry [48, FIG. 3; [0049], lines 3-6].

Albretch essentially does not teach the housing being formed of materials having a surface resistivity in a range of 10^6 ohms/square- 10^{12} ohms/square to dissipate a static charge of the data cartridge.

Waggoner teaches using static dissipative materials for housing and for shielding electronic equipment and components - hence a housing adapted to dissipate a static charge of the electronic equipment and its components. STAT teaches the desirability to include static dissipative materials, which have a surface resistivity in a range of 10^6 ohms/square- 10^{12} ohms/square for electrical/electronic equipment and components protection.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to use static dissipative materials with a surface resistivity in a range of 10^6 ohms/square- 10^{12} ohms/square for the housing, as is taught by Waggoner and STAT, in order to protect the data cartridge.

Note that the range of the surface resistivity is dependent on the material used, and there is no patentability in using a different material in order to obtain a different range - as using static dissipative material for housing of electronic equipment is known in the art [Waggoner, STAT], and as the static dissipative material is not invented by applicant.

Note further the specification provides support for a housing having a surface resistivity in one of three ranges (10^{10} ohms/square- 10^{11} ohms/square, 10^9 ohms/square- 10^{12} ohms/square, and 10^6 ohms/square- 10^9 ohms/square) to dissipate

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the static charge of the data cartridge. The added recitation "wherein the housing is adapted to dissipate a static charge of the data cartridge" is therefore no more than an indication of intended use rather than a further limitation the claim.

3. As per claim 2, STAT teaches the National Fire protection Association (NFPA) calling for dissipating approximately 5,000 volts DC to approximately 500 volts DC in less than approximately 0.5 seconds. It would have also been obvious to one of ordinary skill in the art at the time the invention was made for the housing to adapt to such dissipation in order to conform to NFPA specification.
4. As per claims 3-4, STAT teaches Stat-Loy[®], hence a dissipative polymer (page 14, lines 12-24 of applicant specification); Waggoner teaches static dissipative polymer.
5. As per claims 4-5, STAT teaches Stat-Kon[®], hence a carbon-filled resin and at least one of polypropylene, polyethylene, polystyrene, nylon, polycarbonate, ABS, and acrylic (page 14, line 25-page 15, line 2 of applicant specification).
6. As per claims 6-8, Albretch teaches the housing conforming to industry standard dimensions for a magnetic tape data cartridge [[0012], lines 1-3]; the non-tape storage medium comprising a disk-shaped storage medium [[0055], line 5]; and the non-tape storage medium comprising a solid-state storage medium [240, FIG. 23].
7. As per claim 16, see the rejections of claims 1, 3 above.
8. As per claims 17-20, see the rejections of claims 4, 2, 6, 8 above.

(10) Response to Argument

Appellant argues the followings:

A. Because the Albretch reference discloses that the data storage cartridge has a backing plate 70, and provides that:

The backing plate is electrically coupled to the data storage device by means of land 85 of flex cable 65, to a ground thereof, thereby forming an electrostatic discharge path from the data storage device to the backing plate and through the electrically semiconductive material to the alignment pins of the transfer station, which are electrically grounded... (para [0066]; see also FIG. 18),

backing plate 70 and land 85 of flex cable 65 of the data storage cartridge of the Albretch reference form an electrostatic discharge path for the data storage cartridge.

B. It would not have been obvious to form the cartridge shell of the data storage cartridge of the Albretch reference of a static dissipative material because the Albretch reference already includes an electrostatic discharge path.

C. Forming the cartridge shell of the data storage cartridge of the Albretch reference of a static dissipative material would change the principle of operation of the data storage cartridge in that backing plate 70 and land 85 of flex cable 65 would be of no use.

D. The Albretch reference teaches away from forming the cartridge shell of a static dissipative material because the inventors of the Albretch reference, full aware of the Stat-Kon line of materials, choose not to form the cartridge shell of the data storage cartridge of a Stat-Kon material.

With respect to argument A, the examiner agrees that backing plate 70 and land 85 of flex cable 65 of the data storage cartridge of the Albretch reference form an electrostatic discharge path for the data storage cartridge.

With respect to argument B, the examiner does not agree that it would not

have been obvious to form the cartridge shell of the data storage cartridge of the Albretch reference of a static dissipative material because the Albretch reference already includes an electrostatic discharge path.

Since **Albretch does not positively indicate that forming the cartridge shell of the data storage cartridge of a static dissipative material is prohibited**, Albretch does not preclude forming the cartridge shell of the data storage cartridge of a static dissipative material to dissipate static charge of the data storage cartridge.

Since **Waggoner and STAT suggest using static dissipative material for a cartridge shell (i.e. housing) and for electronic equipment and components protection** (Waggoner - Abstract; STAT - Stat-Kon® Products in Business Machines, and Use of Stat-Kon® Composites in the Electronics Market), it would have been obvious to form the cartridge shell of the data storage cartridge of Albrecht of a static dissipative material to provide electrostatic discharge protection with the cartridge shell **either in addition to** the electrostatic discharge path provided by the backing plate 70 and land 85 of flex cable 65, **or instead of** the electrostatic discharge path provided by the backing plate 70 and land 85 of flex cable 65.

With respect to argument C, the examiner does not agree that forming the cartridge shell of the data storage cartridge of the Albretch reference of a static dissipative material would change the principle of operation of the data storage cartridge in that backing plate 70 and land 85 of flex cable 65 would be of no use.

When electrostatic discharge protection is provided by forming the cartridge shell of the data storage cartridge of Albrecht of a static dissipative material in addition to the backing plate 70 and land 85 of flex cable 65, the principle of operation of the data storage cartridge would **not** be changed because **backing plate 70 and land 85 of flex cable would still be used** to provide electrostatic discharge protection.

When electrostatic discharge protection is provided by forming the cartridge shell of the data storage cartridge of Albrecht of a static dissipative material instead of the backing plate 70 and land 85 of flex cable 65, the principle of operation of the data storage cartridge would **not** be changed because **electrostatic discharge protection is still being provided** (by the cartridge shell), and further because **there is no requirement under 35 U.S.C. 103 (a) for backing plate 70 and land 85 of flex cable 65 to be used** to provide electrostatic discharge protection **when the data storage cartridge of Albrecht is modified with an alternative electrostatic discharge protection mechanism.**

With respect to argument D, the examiner does not agree that the Albrecht reference teaches away from forming the cartridge shell of a static dissipative material because the inventors of the Albrecht reference, full aware of the Stat-Kon line of materials, choose not to form the cartridge shell of the data storage cartridge of a Stat-Kon material.

Since **Albrecht does not positively indicate that forming the cartridge**

shell of the data storage cartridge of a Stat-Kon material (or of a static dissipative material) is prohibited, Albrecht does not teach not forming the cartridge shell of the data storage cartridge of a Stat-Kon material (or of a static dissipative material), and therefore does not teach away from forming the cartridge shell of the data storage cartridge of a Stat-Kon material (or of a static dissipative material) to dissipate static charge of the data storage cartridge.

Since **Waggoner and STAT suggest using static dissipative material for a cartridge shell (i.e. housing) and for electronic equipment and components protection** (Waggoner - Abstract; STAT - Stat-Kon® Products in Business Machines, and Use of Stat-Kon® Composites in the Electronics Market), it would have been obvious to form the cartridge shell of the data storage cartridge of Albrecht of a static dissipative material to provide electrostatic discharge protection with the cartridge shell **either in addition to** the electrostatic discharge path provided by the backing plate 70 and land 85 of flex cable 65, **or instead of** the electrostatic discharge path provided by the backing plate 70 and land 85 of flex cable 65.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

/Tanh Q. Nguyen/

Primary Examiner, Art Unit 2182

March 24, 2008

Conferees:

/Alford W. Kindred/

Supervisory Patent Examiner, Art Unit 2163

/Manorama Padmanabhan/

WQAS, TC 2100, WG 2180